

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**TENTATIVE ORDER NO. R9-2002-0355
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY WITH
MANDATORY MINIMUM PENALTIES AGAINST
TOSCO MARKETING COMPANY
76 SERVICE STATION NO. 5965 DEWATERING FOR
VIOLATIONS
OF
ORDER NO. 2001-96, NPDES PERMIT NO. CAG919002**

The San Diego Regional Water Quality Control Board (hereafter Regional Board), having held a public hearing on November 13, 2002, to hear evidence and comments on the allegations contained in Amended Complaint No. R9-2002-0203, dated September 18, 2002, and on the recommendation for administrative assessment of Civil Liability pursuant to California Water Code section 13385, in the amount of \$15,000 finds as follows:

1. On October 10, 2001, the Regional Board adopted Order No. 2001-96, NPDES Permit No. CAG919002, *General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction, Remediation, And Permanent Groundwater Extraction Projects To Surface Waters Within The San Diego Region Except For San Diego Bay*. Tosco Marketing Company was issued authorization to discharge pursuant to Order No. 2001-96 on December 11, 2000 for the 76 Service Station No. 5965 Dewatering located in San Marcos, California. A groundwater treatment system is operated at the site to remediate fuel hydrocarbon-impacted groundwater collected from the dewatering trenches at the site. Extracted groundwater is discharged to Lake San Marcos.
2. Tosco Marketing Company's Self Monitoring Reports (SMRs) for the period from January 2002 through June 2002 indicate six sampling results in violation of Order No. 2001-96's Discharge Specifications. These violations are summarized in *Table 1 – Violation Summary for Glorietta Bay Pump Station Construction Dewatering*.
3. Under California Water Code sections 13385(h and i), six violations are subject to mandatory minimum penalties as outlined in Table 1.
4. The total amount of the mandatory minimum penalty is \$15,000.
5. Consideration of the information available to the Regional Board prior to the hearing and described in greater detail in Complaint No. R9-2002-0203 supports

November 13, 2002

assessment of civil liability pursuant to Water Code section 13385(h and i) in the amount of \$15,000 as detailed in Table 1.

6. The Regional Board incurred costs totaling \$3,200, which includes investigation, preparation of enforcement documents, and communication with the discharger.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that pursuant to section 13385 of the California Water Code, civil liability is imposed on Tosco Marketing Company in the amount of fifteen thousand dollars (\$15,000) and that the rationale for the assessment contained in Complaint No. R9-2002-0203 is hereby incorporated into this Order.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on November 13, 2002.

TENTATIVE
JOHN H. ROBERTUS
Executive Officer
November 13, 2002

Table 1. Violation Summary for 76 Service Station No. 5965, January 2002 through June 2002.

<u>Date of Violation</u>	<u>Violation</u>	<u>Permitted Limit</u>	<u>Reported Value</u>	<u>Pollutant Category</u>	<u>Ratio, Reported: Permitted</u>	<u>Serious/ Chronic</u>	<u>Water Code Section 13385</u>	<u>Penalty</u>
3/11/02	Total Residual Chlorine daily max.	8 µg/L	500 µg/L	2	62.5	Serious	(h)(1)	\$3,000
3/11/02	Total Residual Chlorine instantaneous max.	10 µg/L	500 µg/L	2	50	Serious	(h)(1)	\$3,000
4/15/02	Chronic Toxicity daily max.	1 TUc	4 TUc	N/A	N/A	Chronic	(i)(1)	\$0
4/15/02	Total Residual Chlorine Average Monthly	2 µg/L	900 µg/L	2	450	Serious	(h)(1)	\$3,000
4/15/02	Total Residual Chlorine daily max.	8 µg/L	900 µg/L	2	112.5	Serious	(h)(1)	\$3,000
4/15/02	Total Residual Chlorine instantaneous max.	10 µg/L	900 µg/L	2	90	Serious	(h)(1)	\$3,000
Total Penalty:								<u>\$15,000</u>

Ratio, Reported:Permitted is used for determining whether a violation is serious or chronic based on the category of the pollutant.